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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,142	10/30/2000	Yasuharu Iwaki	Q61551	6580

7590 06/08/2004  
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC  
2100 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, DC 20037

EXAMINER

PATEL, KANJIBHAI B

ART UNIT PAPER NUMBER

2625

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/698,142

Applicant(s)

IWAKI, YASUHARU

Examiner

Kanji Patel

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1-17.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Drawings***

2. Drawings filed on 10/30/00 have been approved by the examiner.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-17** are rejected under 35 U.S.C. 102(b) as being anticipated by Simon (US 5,266,381).

**For claim 1**, Simon discloses an image processing method, comprising the steps of:

performing preset image processing on input image data (figures 1-6);

outputting processed image data as output image data (figures 1-6);

wherein said preset image processing includes eye correction processing for correcting a closed eye image in a human image having an eye in a closed state an eye image in an open state (column 1, lines 5-35, 37-45; figures 1-6; eye correction is provided by touching of photographs using dry-transfers being formed in the shape of an eye).

**For claim 2,** Simon discloses the image processing method wherein said eye correction processing is composite processing for compositing an open eye image of a same person on said closed eye image (figure 3; column 2, lines 7-10; overlaying reads on compositing).

**For claim 3,** Simon discloses the image processing method wherein said eye correction processing is composite processing for compositing an open eye image of a person on said closed eye image (figure 3; column 2, lines 7-10; overlaying reads on compositing).

**For claim 4,** Simon discloses the image processing method wherein said eye correction processing is composite processing for compositing on said closed eye an eye image selected from a plurality of samples of open eye images which have preliminarily been prepared (figure 6; column 2, lines 16-18).

**For claim 5,** Simon discloses the image processing method wherein said composite processing comprises a step of adjusting a size an angle of the eye, colors and densities of an eyelid, a pupil and neighbor of the eye in an image to composite so as to conform to those in an image to be composited (column 1, lines 42-64).

**For claim 6,** Simon discloses the image processing method wherein said adjusting step is performed automatically based on one or more characteristics of image characteristics of said image to be composed including a color and density of the neighbor of the eye, a position of each eye, a distance between both eyes, a size of the eye and a size of a face (column 1, lines 21-34; the dry-transfer technology is used for automation; see also column 1, lines 42-64).

**For claim 7,** Simon discloses the image processing method wherein said adjusting step is performed manually by an operator based on a menu which changes size, angle, color, density and aspect ratio of the eye of said image to composite (column 1, lines 12-18; hand-painting the eyes over the closed eyelids corresponds to a manual operation—a conventional method).

**For claim 8,** Simon discloses the image processing method wherein said eye correction processing is performed by the steps of:

comparing the eye image in the closed state and the eye image in the open state with each other (in figure 2, one eye is opened and second eye is closed);

assuming movement of a point on an eyelid based on a characteristic of a shape of the eye image (figure 3); and

opening a closed eye based on the thus assumed movement (figure 4 has both eyes opened).

**For claim 9,** Simon discloses the image processing method wherein said eye correction processing comprises the steps of:

setting the eye image in the closed state as an input signal (in figure 2 eye 34 is in closed state);

setting the eye image in the open state as a teacher signal (figure 3);

learning an image conversion from a closed eye to a open eye (figure 3); and

opening the closed eye based on the thus learned image conversion (figure 4).

**For claim 10,** Simon discloses the image processing method wherein a degree of opening the closed eye is adjustable in said eye correction processing (figure 6 provides a plurality of rows of eye-shaped indicia for eye correction).

**For claim 11,** Simon discloses the image processing method wherein the eye image in said closed state is adjustable into the eye image in a predetermined open state by specifying a length of eyelashes, a direction of the eyelashes, a single-edged eyelid or a double-edged eyelid (figure 3).

**For claim 12,** Simon discloses the image processing method wherein said eye correction processing further comprises a retouch function (column 1, lines 36-65).

**For claim 13,** Simon discloses the image processing method wherein said eye correction processing in correcting the closed eye image when only eye is closed utilizing characteristics of open eye and neighbor thereof (figure 2-3).

**For claim 14,** Simon discloses the image processing method wherein as the characteristics of the neighbor, at least one or more information of a color and size of a pupil, a length of eyelashes, a color of skin of an eyelid and the neighbor of the eye, a single-edged eyelid or a double-edged eyelid, a position of the eye and the size and shape of the eye are utilized (column 1, lines 35-64).

**For claim 15,** Simon discloses the image processing method wherein a position or a shape of a pupil or a can be changed to be capable of adjusting a line of vision by both eyes (figure 4).

**For claim 16,** see the rejection of claim 1 above.

**For claim 17**, Simon discloses the image processing apparatus, further comprising an image display device (figures 2-6 are displayed on a display device), which controls such that an enlarged image of a neighbor of the eye can be displayed on said image display device while said eye correction processing device performs said eye correction processing for opening a closed eye (column 1, lines 6-34)

#### **Other prior art cited**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yamamoto (US 5,905,563) discloses a blink detection face image processing apparatus utilizing retinal reflection image.

Wanders (US 6,092,899) discloses a multi focal lens, and method for production thereof.

Terunuma et al. (US 5,570,151) disclose a camera which operates a shutter according to a photographer's wink and the vibration level.

Anslow et al. (US 6,433,899 B1) disclose an eye quality monitor for a 2R regeneration.

Itoh et al. (US 4,486,080) disclose a device for detecting blinking of an eye under examination.

Okumura (US 5,878,156) disclose a detection of the open/close state of eyes based on analysis of relation between eye and eyebrow images in input face images.

**Contact information**

5. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to **Kanji Patel** whose telephone number is (703) 305 4011. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 6:30 p.m. Friday off. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, **Mehta , Bhavesh**, can be reached on (703) 308- 5246.

Any inquiry of general nature or relating to the status of this application should be directed to the **Group receptionist** whose telephone number is (703) 305-3800. The

**Fax number** for this group is (703) 872-9306.



Kanji Patel  
Patent Examiner  
Group Art Unit 2625  
May 28, 2004